

TOWN *of* WASHINGTON, MAINE

AN ORDINANCE REGULATING STORAGE AND LAND APPLICATION OF SLUDGE AND OTHER RESIDUALS

TITLE :

This Ordinance shall be known and cited as the "Town of Washington Sludge Management Ordinance" and will be referred to herein as "this Ordinance."

Article 1 — Authority, Applicability and Availability

- 1.1 This Ordinance is adopted pursuant to M.R.S.A. Title 30-A section 3001 et seq.
- 1.2 The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of Washington.
- 1.3 A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public during Town office hours. Copies shall be made available to the public at reasonable cost to be charged to the person making the request. Notice of availability of this Ordinance shall be posted in the Town office.

Article 2 — Purpose

- 2.1 The purpose of this Ordinance is to protect the health and safety of the residents of the Town of Washington; to enhance and maintain the quality of the environment; and to conserve natural resources through regulation of storage and land application of septage, industrial wastewater treatment plant sludge and other residuals.
- 2.2 The Town of desires to work in partnership with the Department of Environmental protection by establishing in this Ordinance a local procedure for the following activities:
 - 2.2.1 a public hearing process to review all land application sites;
 - 2.2.2 an inspection process to review all land spreading activities;
 - 2.2.3 a notification process to keep the Town informed of all land spreading activities; and
 - 2.2.4 identification of local sensitive environmental areas.
- 2.3 This Ordinance also recognizes the agricultural value that sludge and other residuals can provide the Town's farms and forest land. The opportunity to use sludge and residuals on agricultural land enhances the ability of local farmers to improve the productivity of their land and further promotes the Town's interest in preserving the agricultural heritage of the community. Furthermore, the application of sludge and residuals and composting activities represent a cost effective management strategy for a certain

portion of municipal and special solid waste. The application of sludge and residuals on agricultural lands shall be performed in a manner that also recognizes the other land use activities that share the Town's rural landscape.

Article 3 — Validity, Severability, and Conflict with Other Ordinances

- 3.1 Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section of this Ordinance.
- 3.2 Whenever the requirements of this Ordinance are inconsistent with the requirements of any other Ordinance, Code, or Statute, the more restrictive requirements shall apply.

Article 4 — Appeals

- 4.1 An aggrieved party may appeal any final action taken by the Planning Board or Code Enforcement Officer to Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure.

Article 5 — Amendments

- 5.1 This Ordinance may be amended by a majority vote of the Town, in Town Meeting assembled. Amendments may be initiated by a request of the Planning Board, Selectmen, or by petition bearing the signatures of registered voters equal to, or in excess of, 10% of the votes cast in the last gubernatorial election in the Town.

Article 6 — Continuance of Existing Uses

- 6.1 Any land spreading of sludge and residuals, storage of sludge and residuals, land spreading and storage of septic sludge, and composting operations that are legally existing and operating with a permit from the Department of Environmental Protection within the Town of Washington prior to the adoption of this Ordinance may continue, but shall be subject to the following requirements:
 - 6.1.1 The expansion or enlargement of any existing activity shall require a permit and conform to the provisions of this Ordinance for the new, expanded area.
 - 6.1.2 The applicant shall obtain an annual renewal permit within 12 months of the effective date of this Ordinance and shall conform to the requirements established for permit renewal.

Article 7 — Effective Date

- 7.1 Having been adopted by the voters on 27 March 1999, this Ordinance shall be effective immediately upon certification by the Town Clerk.

Article 8 — Definitions

- 8.1 **Applicant**

The term applicant refers to the owner and/or operator of the wastewater treatment plant or generator of the sludge or residual, or any person who alone or in conjunction with others owns real property upon which is located a land spreading site, compost operation or storage facility.

8.2 Composting Operation

The term refers to any activity designed for the biological decomposition and stabilization of organic matter under aerobic conditions of high temperature, resulting in a humus-like product that can be used as a soil amendment. Composting activities that are exempt from obtaining a permit from the Department of Environmental Protection or require a permit under the permit by rule standards are exempt from this definition.

8.3 Expansion and/or Enlargement

The expansion and/or enlargement of an activity shall mean the increase in the size or capacity of an operation regulated under this Ordinance and shall include the following: construction and/or enlargement of any building or structure, new spreading sites, and any increase in the size of the operation.

8.4 Minor Revision

A minor revision shall mean any change in the activity that does not include an expansion and/or enlargement.

8.5 Residuals

Those materials, included but not limited to pulp and paper mill wastewater treatment sludge, food and fiber processing wastes, municipal wastewater and sludges, vegetable and fish processing residuals, and ash from wood incinerators, generated from municipal, commercial or industrial facilities that are suitable for controlled land application and results in vegetative assimilation,attenuation of the components in the material or improved soil conditions.

8.6 Septage

Waste, refuse, effluent, sludge, and other materials from septic tanks, cesspools, or other similar facilities.

8.7 Sludge

The semi-solid or liquid residual generated from a municipal, commercial or industrial wastewater treatment plant.

Article 9 — Regulated Activities

9.1 The following activities shall be regulated by the Town of Washington and shall require a permit from the Planning Board. The activities are:

9.1.1 land spreading of sludge and residuals;

9.1.2 storage of sludge and residuals;

9.1.3 land spreading; and

9.1.4 storage of septage,and composting operations.

Article 10 — Permit Requirements

10.1 Permit Required

No person shall conduct or allow on his/her property any of the activities listed in section 9.1 without first obtaining a permit for that purpose from the Planning Board. The Planning Board shall furnish an application form for the purpose of obtaining all the required information from the applicant. The fee for the permit shall be \$150.00 and shall be presented with the complete application to the Town Clerk. The permit fee is non-refundable. The permit shall be issued for a period of one year and shall be subject to an annual renewal permit.

10.2 Annual Renewal Permit

All applicants that plan to continue operations shall obtain an annual renewal permit from the Code Enforcement Officer within 15 days of the expiration of their existing permit. The non-refundable renewal permit fee shall be \$75.00. Any applicant that does not obtain the annual renewal permit shall submit an application to the Planning Board for a new permit. The renewal permit shall be obtained for any activity that plans to continue operations regardless of any temporary lapse in spreading, storage, composting, etc.

10.3 Permit Modifications

The expansion and/or enlargement of any regulated activity shall require a permit from the Planning Board according to the requirements for a new permit. Minor changes or revisions to the original application shall be submitted to the Code Enforcement Officer for review and approval. The CEO may request the Planning Board's input prior to making a decision about the proposed change. The applicant shall be responsible for making any permit modifications with the Department of Environmental as required.

Article 11 — Permit Submission Requirements

11.1 New Permits

All new permits for any regulated activity shall be filed on the forms provided by the Planning Board and shall include the following information:

- 11.1.1 The complete application submitted to the Department of Environmental Protection for the proposed activity. This shall include all the required permit attachments.
- 11.1.2 The \$150.00 application fee.
- 11.1.3 Construction drawings for any buildings and/or structures proposed for the activity.
- 11.1.4 A list of names and addresses of all property owners of record within 500 feet of the proposed activity.
- 11.1.5 A map of the proposed site showing any local sensitive areas within 1,000 feet of the site.

- 11.1.6 A report from the Code Enforcement Officer indicating that the site was inspected for compliance with the provisions of this Ordinance.

11.2 Renewal Permits

All renewal permits for any regulated activities shall be submitted to the Code Enforcement Officer on the forms provided and shall include the following:

- 11.2.1 All required testing data and/or reporting data that was required to be submitted to the DEP during the preceding calendar year.
- 11.2.2 The \$75.00 renewal fee.
- 11.2.3 Any proposed changes or modifications to the permit.

Article 12 — Application Procedure

12.1 New Permits

The application procedure outlined below shall be followed for all new permit applications:

- 12.1.1 The applicant shall obtain a copy of this Ordinance and application form from the Code Enforcement Officer.
- 12.1.2 The applicant shall complete the application and arrange an inspection of the site with the CEO who shall check the location for compliance with this Ordinance.
- 12.1.3 The CEO shall complete an inspection report and submit a copy to the applicant to include with the application.
- 12.1.4 The applicant shall submit a complete application to the CEO and request to be placed on the Planning Board Agenda for consideration of the proposal.
- 12.1.5 The Planning Board shall schedule a hearing on the proposed application within 30 days of the CEO receiving the complete application. The Planning Board shall provide notice of the date and time of the hearing to the applicant at least 20 days prior to the date of the hearing, in order to allow adequate time for notification of property owners of record and legal notices.
- 12.1.6 The applicant shall notify all property owners of record within 500 feet of the proposed site of the date, time, place, and purpose of the hearing by certified mail. The applicant shall submit proof to the Planning Board that the letters were sent to each property owner of record. The letters shall be mailed at least 10 days prior to the scheduled hearing. Failure of any party to receive a notice shall not invalidate the hearing proceedings, provided that the applicant can show proof that the letters were mailed.
- 12.1.7 The applicant shall place one legal ad in a newspaper of general circulation in the area indicating the date, time, place, and purpose

of the hearing. The ad shall be placed at least 7 days prior to the scheduled hearing. The applicant shall submit a copy of the ad to the planning board.

- 12.1.8 The Planning Board shall review the proposed application for compliance with this Ordinance and shall hear testimony from the applicant, property abutters and other interested parties.
- 12.1.9 The CEO shall attend the hearing and provide information to the Planning Board concerning the site inspection.
- 12.1.10 The Planning Board may decide to conduct a site visit prior to rendering it's decision.
- 12.1.11 The Planning Board shall review and decide upon the application based upon the following review standards:
 - 12.1.11.1 The application is complete.
 - 12.1.11.2 The applicant has complied with all hearing notification requirements.
 - 12.1.11.3 The CEO has conducted a site visit and finds that the proposal complies with all of the applicable provisions of the Ordinance.
 - 12.1.11.4 The proposed activity conforms to all the applicable provisions of this Ordinance.
- 12.1.12 The Planning Board may decide to
 - 12.1.12.1 approve the application;
 - 12.1.12.2 approve the application with conditions in order to bring the proposal into compliance with this Ordinance;
or
 - 12.1.12.3 deny the application.
- 12.1.13 The Planning Board shall issue a written decision and shall indicate the reasons for their decision by a finding of fact. The written decision shall be mailed to the applicant within 7 days of a decision.
- 12.1.14 The Planning Board shall grant or deny the permit to the applicant based upon the board's written finding of fact. The permit shall be issued within 7 days of the final decision of the Planning Board.

12.2 — Renewal Permits

The application procedure outlined below shall be followed for all renewal permits:

- 12.2.1 The applicant shall within 15 days of the expiration of the existing permit submit a renewal application form to the CEO on the forms provided.
- 12.2.2 The CEO shall review the permit request and shall issue the renewal permit if the application is complete and conforms to the provisions of this Ordinance.

Article 13 — Performance Standards

13.1 Notification Standards

- 13.1.1 The applicant shall notify the Code Enforcement Officer at least 24 hours prior to any sludge, residuals or septage land spreading activity.
- 13.1.2 The applicant shall submit all test reports, annual reports and any other data required as per the DEP permit to the CEO at the time of the annual permit renewal. The CEO shall file this information with the original permit.
- 13.1.3 The applicant shall notify the CEO of any change or modification in the activity and request that the original permit be amended. Failure to notify the CEO of any alteration in the original permit shall constitute a violation of this Ordinance.
- 13.1.4 The applicant shall notify the CEO when the activity will permanently cease operation at the location. A temporary lapse in activity does not constitute a closing of the activity.

13.2 Inspection

- 13.2.1 Upon notification that land spreading will occur at the site, the CEO shall inspect the site during or within 48 hours after spreading has occurred. The CEO shall maintain a record of each inspection.
- 13.2.2 The CEO shall inspect the site for compliance with this Ordinance and shall notify the applicant in writing of any violation along with the steps necessary to remedy the situation.
- 13.2.3 The CEO shall respond to all complaints concerning any activity regulated by this Ordinance and determine if there are any violations of this Ordinance. A copy of all complaints shall be provided to the applicant.
- 13.2.4 The applicant shall allow the CEO to inspect the activity during reasonable business hours.

13.3 General Standards

- 13.3.1 All activities shall be performed in accordance with the regulations and provisions contained in this Ordinance and the applicable DEP permit. The applicant shall provide to the CEO all annual reporting

data required by the DEP at the time of permit renewal. Any activity not performed in accordance with this Ordinance shall constitute a violation of this Ordinance.

13.3.2 All activities shall conform to the following general standards as applicable:

13.3.2.1 Land spreading shall not occur during the following time period: November 15th to April 15th.

13.3.2.2 Land spreading shall not occur on frozen ground or if the ground is saturated.

13.3.2.3 Whenever sludge, residuals or septage are planned to be tilled into the soil, this activity shall occur as soon as possible after spreading.

13.3.2.4 Whenever possible, temporary sludge storage sites shall be left untouched until spreading occurs.

13.3.2.5 All activities shall conform to the setback requirements established by DEP and for local sensitive areas contained in this Ordinance.

13.4 Transportation

13.4.1 The applicant shall take all reasonable measures to transport sludge, residuals or septage to the activity site in a manner that reduces any odors or other nuisances to residents and businesses along the access route. Whenever possible, an access route shall be found through the least populated area.

13.5 Local Sensitive Areas and Setbacks

13.5.1 The Town may designate local sensitive areas that due to environmental conditions require setback distances greater than those prescribed by DEP. The Town shall identify and map all local sensitive areas and designate appropriate setbacks to protect these locations from the activities regulated by this Ordinance. These locations shall be sensitive to one or more of the following conditions:

13.5.1.1 phosphorus,

13.5.1.2 stormwater run-off,

13.5.1.3 erosion, and

13.5.1.4 contamination from nutrients and/or other compounds usually found in sludge and residuals.

13.5.2 Local sensitive areas may include but are not limited to some of the following:

- 13.5.2.1 wetlands;
 - 13.5.2.2 rivers, streams, and brooks;
 - 13.5.2.3 steep slopes;
 - 13.5.2.4 fishing areas; and
 - 13.5.2.5 ponds and lakes.
- 13.5.3 The local sensitive areas and the applicable setback requirements for the Town of Washington are as follows:
- 13.5.3.1 Spreading of sludge and sewerage or septage waste is prohibited in the Town of Washington Watershed Overlay District as per the Washington Land Use Ordinance.
 - 13.5.3.2 Spreading of sludge and sewerage or septage waste is prohibited in the Town of Washington Shoreland and Conservation Districts, per Maine DEP regulations requiring 300 foot minimum setbacks from waterbodies.
 - 13.5.3.3 Setback from all wells or potable water supplies shall be 300 feet minimum. The Planning Board may find a larger setback is required by local circumstances, such as, but not limited to, steep slopes or stormwater courses.
 - 13.5.3.4 Setback in all other districts is 50 feet minimum from any roads, ditches, intermittent streams or other potential water carrying features, otherwise the minimum setback is 25 feet. The Planning Board may find a larger setback is required by local circumstances, such as, but not limited to, steep slopes or stormwater courses.

Article 14 — Enforcement

- 14.1 It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the CEO shall find that any provision of this Ordinance is being violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Said violation shall be corrected within 30 days.
- 14.2 After notification and the 30 day correction period, any person including, but not limited to, a landowner, a landowner's agent, or a contractor who is responsible for a violation of this Ordinance is liable for the penalties in Title 30-A MRSA, Section 4452. If court action is necessary to enforce this Ordinance, the violator shall be responsible for all court costs and the Town's reasonable attorneys fees. Any fine recovered through this Ordinance shall accrue to the Town.
- 14.3 The CEO shall maintain a record of all inspections and complaints, notices of violation, resolutions of any violations, and enforcement actions.

- 14.4 A copy of the notice of violation shall be sent to the Department of Environmental Protection. The DEP shall also be notified upon the correction of any violation.